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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/827,199	04/19/2004	David Lee Daniels	BIG0001-00	2330

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EXAMINER

SALL, EL HADJI MALICK

ART UNIT	PAPER NUMBER
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2157

NOTIFICATION DATE	DELIVERY MODE
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06/30/2008

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dsiplaw.com
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DETAILED ACTION

1. Upon receipt of the response submitted on March 4, 2008, it is deemed that an election/restriction is necessary. Any inconvenience to the applicant is regretted.

Furthermore, Applicant disagreed with the rejection of claims 1, 8, 10, 11 and 17 because as he stated: "Claim 10 requires...preprocessing said email by removing and ..." and both "claims 11 and 17 require ...storing a file of a body to an email; ...". The limitations argued in claims 1, 8 are missing in claims 10, 11 and 17, therefore an election/restriction is necessary.

Election/Restrictions

This application contains claims directed to the following patentably distinct species of the claimed invention: Species 1 (process for secure and timed delivery of recallable and erasable email by "...a link to a stored image of the body from the email substituted for the body of the email..."; figure 2); Species 2 (process for secure and timed delivery of recallable and erasable email by "...removing and storing the original body of the email..."; figure 3); Species 3 (method of sending an email by ...storing a file of an email; ..."; figure 1).

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Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is patentable (novel and nonobvious) over the other (though they may each be unpatentable over the prior art). See MPEP § 802.01(II).

In the instant case, the Species 1, 2 and 3 are not connected in at least mode of operation, which is clearly evidenced by figures 2, 3 and 1, respectively, and relevant parts of the disclosure describing these figures.

The Examiner has determined that the additional attributes present in Species 2 would not be an obvious variation of attributes present in Species 1 to one of ordinary skills in the art. Therefore, Species 1 are patentably distinct from Species 2, though they may each be unpatentable over the prior art.

The Examiner has determined that the Species 1-3 differ in mode of operation from one another in ways that would not be obvious to one of ordinary skills in the art at the time the invention was made. Therefore, Species 1-3 are patentably distinct from one another, though they may each be unpatentable over the prior art.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim appears to be generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Applicant is given **ONE (1) MONTH, or THIRTY (30) DAYS** from the mailing date of this communication, whichever is longer, within which to respond to this election/restriction requirement in order to avoid abandonment (35 U.S.C. § 133). Extensions of this time period may be granted under 37 CFR 1.136(a).

2. Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to El Hadji M Sall whose telephone number is 571-272-4010. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on 571-272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4010. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be

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obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/El Hadji M Sall/

Examiner, Art Unit 2157

/Ario Etienne/

Supervisory Patent Examiner, Art Unit 2157